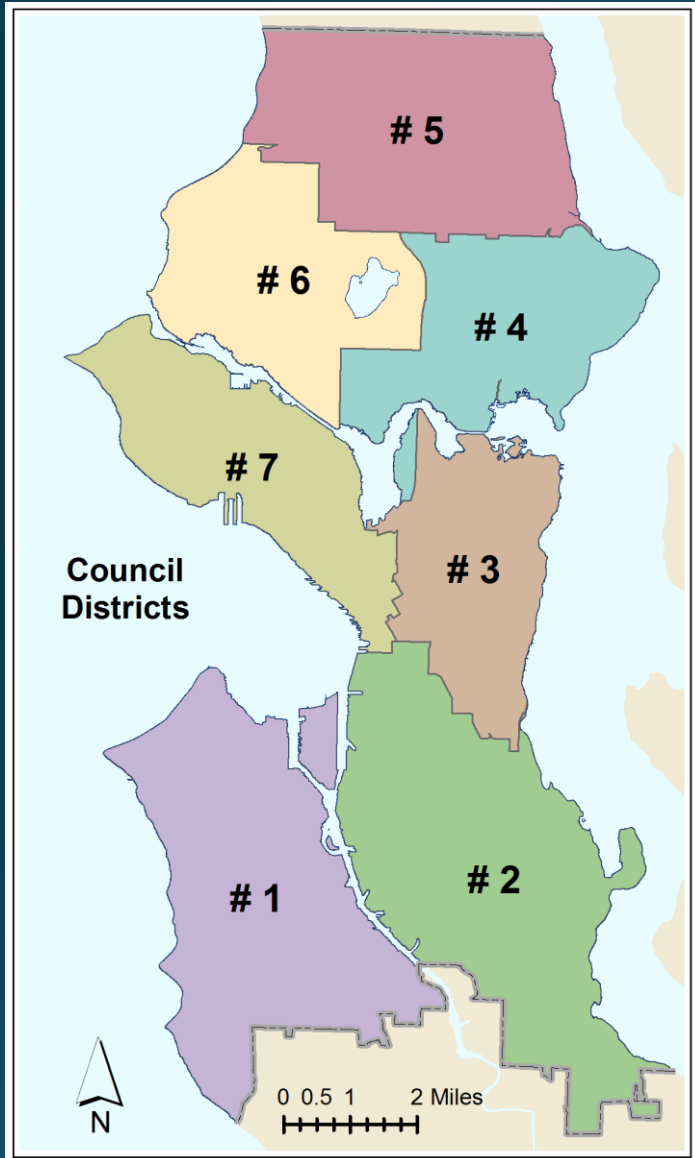


January 2022
Assistant City
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Schneier

Redistricting Legal Overview

What is Redistricting?

- Redistricting is the process of redrawing district boundaries so that each district in the City has the same number of residents
- The City's population does not grow evenly across districts, leading to uneven districts
- Every ten years, we recount the people living within the city limits and redraw the district lines so that they are even again.



Laws Governing Seattle District Criteria

Federal Law

- 14th Amendment to the U.S. Constitution:
- 15th Amendment to the U.S. Constitution:
- Voting Rights Act of 1965, Section 2

State Law

- RCW 29A.76.010(4)

Local Law

- Seattle City Charter Art. IV Sec. 2 Subdivision D(3)

Criteria can overlap, for example:

Local districts must be “**substantially equal.**”

“Each council district shall be as **nearly equal in population as possible** to each and every other such district comprising the municipal corporation”

“The population of the largest district shall exceed the population of the smallest by **no more than one percent.**”

Legal Requirements Summary

District populations must be as equal as possible: 1% difference between smallest and largest district at most

Districts must be as compact as possible

Districts must be contiguous

District boundaries must not be drawn based on the residence of any individual

Districts must not be gerrymandered.

To the extent practical, district boundaries shall:

- Follow existing district boundaries
- Follow recognized waterways and geographic/natural boundaries
- Preserve/Follow existing communities of interest and neighborhoods.

Districts must have “equal” population

- “One person, one vote”
- Based on entire population (children, non-citizens, etc.), not just those eligible to vote
- Underlying Requirement—not one factor among others to be considered.
- The population of the largest district shall exceed the population of the smallest by no more than one percent.

Districts must be compact

- Compactness: having the minimum distance between all the parts of a constituency
- “As regular in shape as possible,” rather than “as small as possible.”
- A circle is the ideal shape of “compactness”, but the compactness is a relative rather than absolute standard.
- *Kilbury v. Franklin County ex rel. Bd. of County Commissioners*: Washington Supreme Court held district was compact because it did not have a “grotesque, absurd, tortured, or strangely elongated shape.”

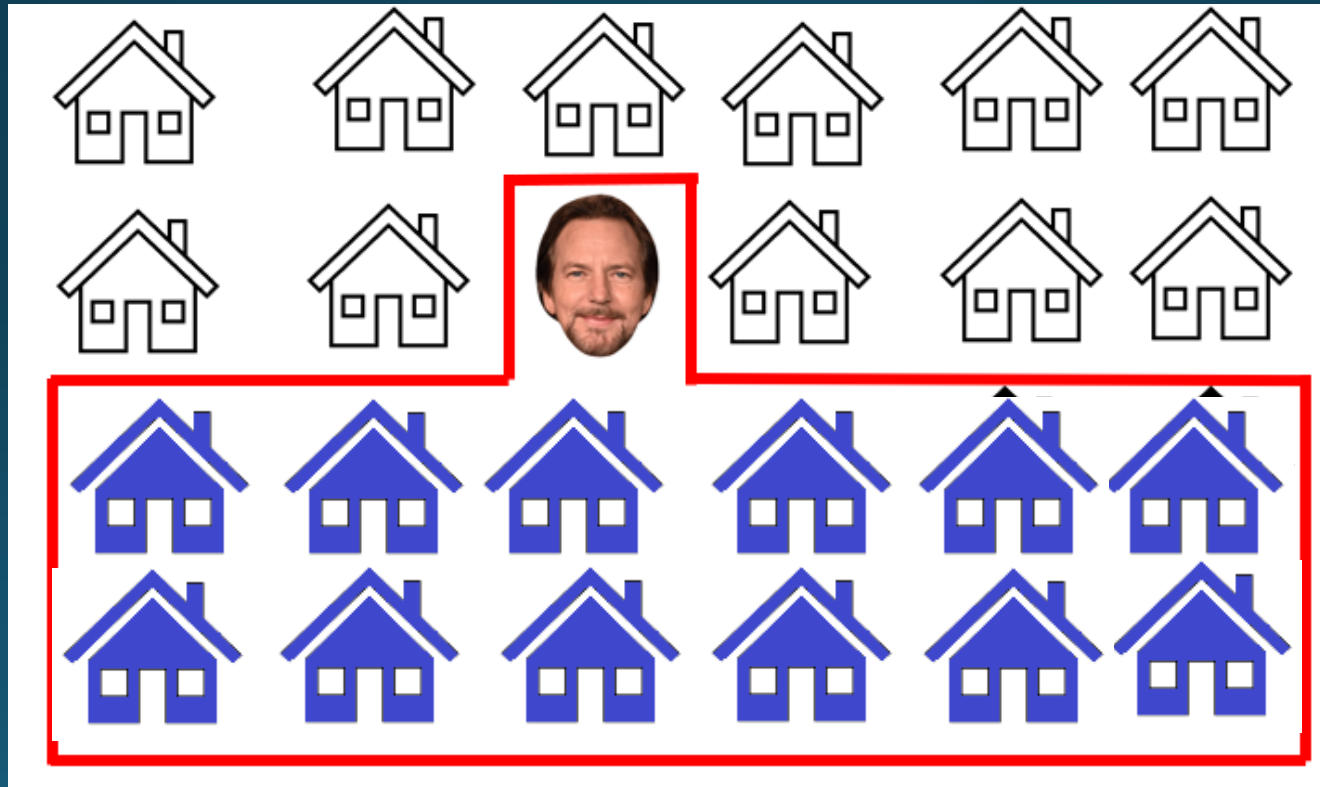
Kilbury v. Franklin County ex rel. Bd. of County Com'rs, 151 Wash.2d 552, 564-565 (2004)



Districts must be contiguous

- Districts must have a single, uninterrupted shape
- Must be able to travel from any one part of the district to another without crossing into a different district

Neither the Commission nor the Districting Consultant may consider the residence of any individual in drawing the map



Gerrymandering

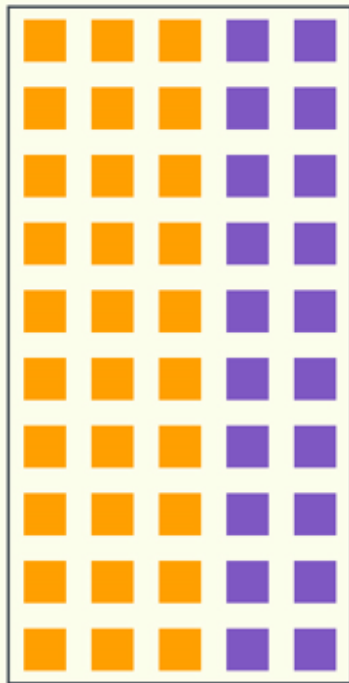
- What: drawing a district or district map to give an advantage to one group over another
 - Boosting one group's chances at securing candidate of choice by diluting chances of another group
 - Sometimes *but not always* identified by bizarre shapes
- Who: political groups, racial groups, ethnic/linguistic groups, religious groups, class groups, or any other demographic
- How: by drawing boundaries that, when viewed as whole are not proportionate to the demographic makeup of the electorate
 - Techniques include “Packing” and “Cracking”
- Effect: by diluting the voting strength of a certain group, those voters have less of a chance of electing their candidate(s) of choice.

Drawing Districts

How differently drawn district maps produce different electoral results

FOUR WAYS TO DIVIDE 50 PEOPLE INTO 5 DISTRICTS:

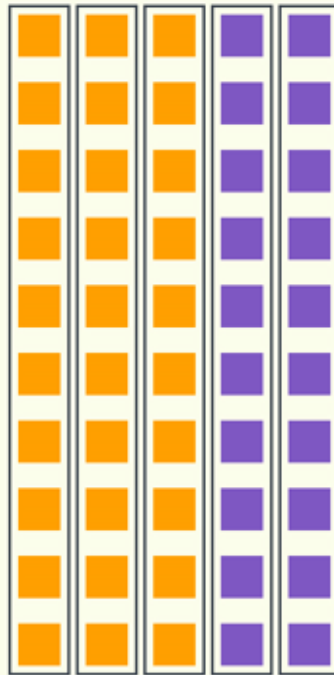
50 people



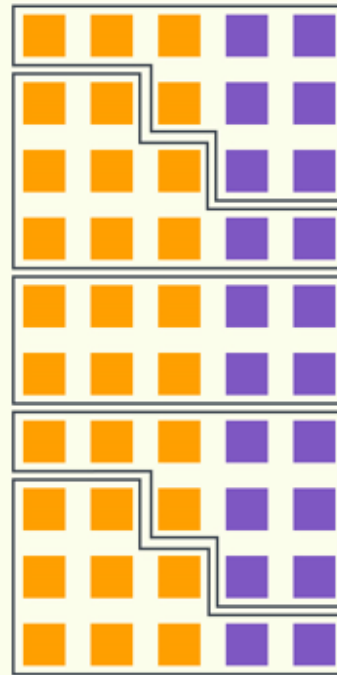
60% orange
40% purple

FAIR

Results proportionate to electorate



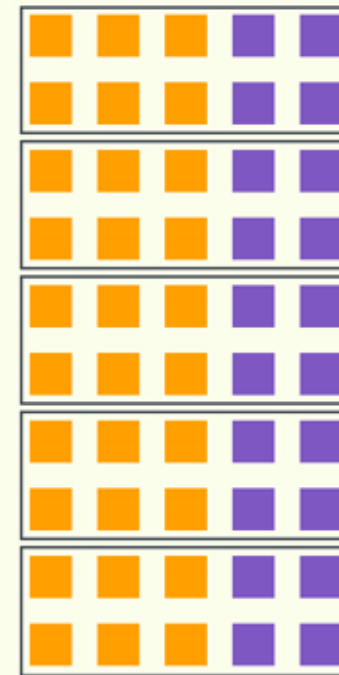
3 orange
2 purple



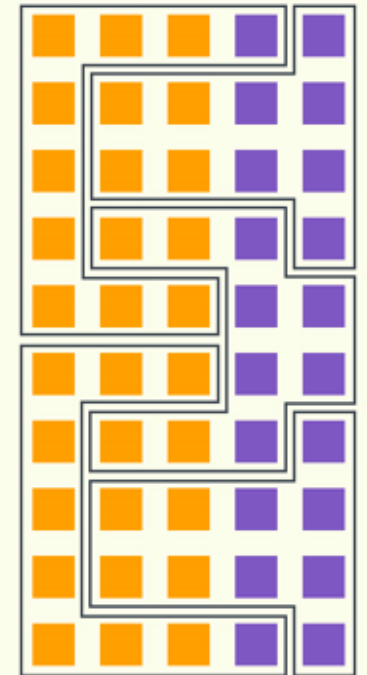
3 orange
2 purple

NOT FAIR

Results not proportionate to electorate



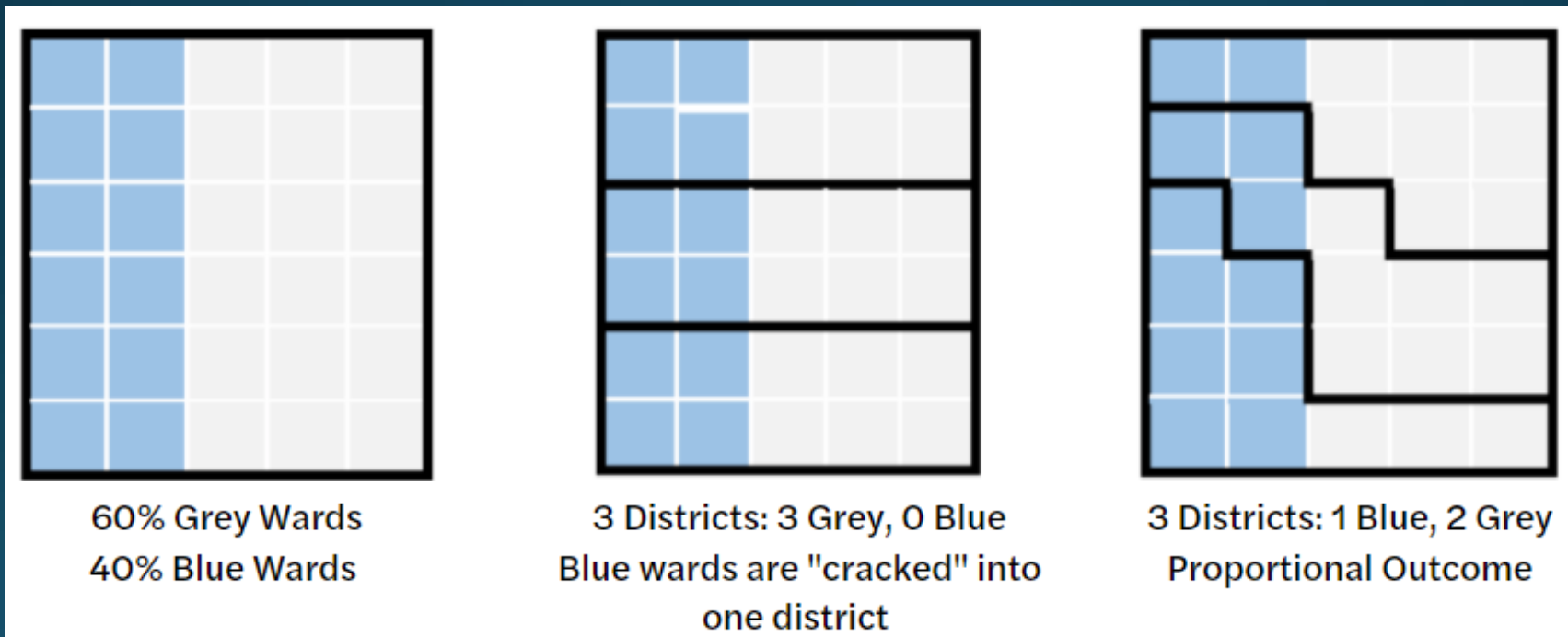
5 orange
0 purple



2 orange
3 purple

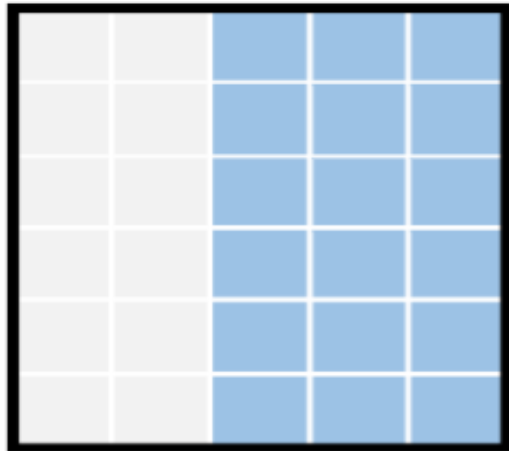
Cracking

- Splitting a group's members across multiple districts to ensure the opposing party does not have a majority any district.

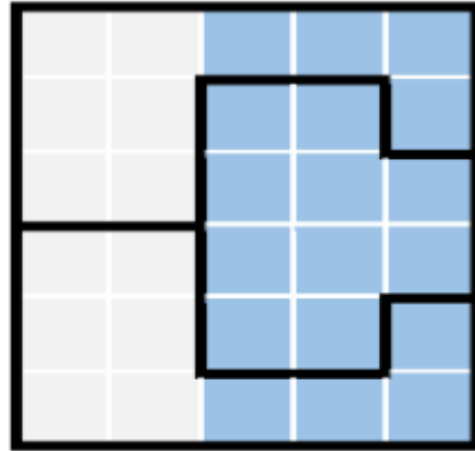


Packing

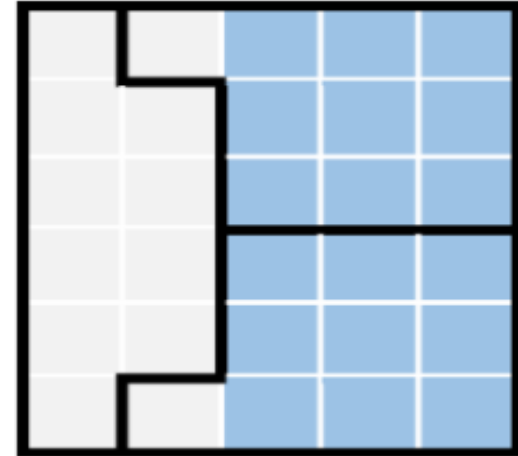
- Concentrating a group's members into one district to "waste" their voting power in one district reduce their voting power in other districts



60% Blue Wards
40% Grey Wards



3 Districts: 2 Grey,
1 Blue
Blue wards are "packed"
into one district



3 Districts: 2 Blue,
1 Grey
Proportional Outcome

Packing: Affirmative Gerrymandering

- Sometimes Gerrymandered groups prefer packed districts
 - Examples: “Majority-Minority” districts, Incumbent Gerrymandering
 - Guarantees representation
 - Safe seats
- Again, City Charter Article IV Sec. 2 Sub. D(3) states: “District boundaries shall be drawn to produce compact and contiguous districts that are not gerrymandered.”

Other Gerrymandering Techniques

- “Kidnapping”: redrawing a district to exclude an incumbent's residence from her former district
- “Hijacking”: redrawing a district to pit two incumbents against each other

The Voting Rights Act of 1965 (VRA)

Redistricting that dilutes the voting power of a “minority” racial or linguistic group is unlawful regardless of whether or not the discrimination was intentional.

- Designed to combat tactics denying voters of color the right to an effective vote, including cracking and packing
- Section 2: “No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which *results in* a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.”
- Discriminatory result: Court will consider the “***totality of the circumstances***” to determine whether the redrawn district has abridged protected voters’ ability to participate equally in elections and to elect representatives of their choice.
- The Voting Rights Act (VRA) overrides inconsistent state and local laws

Affirmative Racial Gerrymandering: Can you draw a district based on race to avoid VRA Liability?

- “The Equal Protection Clause of the Fourteenth Amendment prevents a State, in the absence of “sufficient justification,” from “separating its citizens into different voting districts on the basis of race.””
- The Commission may consider race as the “predominant factor” in drawing a district boundary only if it can prove that sorting voters by race serves a “compelling interest” and is “narrowly tailored” to that end.
- Compliance with the Voting Rights Act is considered a compelling interest.

Cooper v. Harris, 137 S.Ct. 1455, 1459 (2017)

Is the District triggering the Voting Rights Act in the first place?

- Three threshold conditions for proving such a vote-dilution claim (*Gingles* Test):
 - (1) A “minority group” must be “sufficiently large and geographically compact to constitute a majority” in some reasonably configured legislative district;
 - (2) the minority group must be “politically cohesive,” and
 - (3) a district’s white majority must “vote[] sufficiently as a bloc” to usually “defeat the minority’s preferred candidates

Thornburg v. Gingles, 478 U.S. 30, 106 S.Ct. 2752, 92 L.Ed.2d 25

Other District Criteria:

- Follow existing district boundaries
- Follow recognized waterways and geographic/natural boundaries
- Preserve/Follow existing communities of interest and neighborhoods.
- “To the extent practical/feasible”: these criteria are subordinate to the mandate for equal population and the criteria that district boundaries must be contiguous, as compact as possible and not gerrymandered.

Summary

- District populations must be as equal as possible: 1% difference between smallest and largest district at most.
- Districts may not be Gerrymandered.
 - Must be compact and contiguous, without taking any individual's residence into consideration
 - But, majority-minority districts may be created in order to prevent the dilution of racial and linguistic groups' voting strength in compliance with the Voting Rights Act.
- District Boundaries must also honor existing district boundaries, geographic/natural boundaries, and communities of interest and neighborhoods to the extent that doing so does not result in uneven population, dissolution of voting power of racial and linguistic groups, or otherwise give an electoral advantage to one group over another.

Appendix: Legal Requirements

Federal Law

- **14th Amendment to the U.S. Constitution:**
 - “No state shall ... deny to any person within its jurisdiction the equal protection of the laws.
 - Districts must be substantially equal.
 - Governments may not draw districts on the basis of race
- **15th Amendment to the U.S. Constitution:**
- The right to vote cannot be abridged “on account of race, color, or previous condition of servitude”
- **Voting Rights Act of 1965, Section 2**
 - *Enforcement mechanism of the 15th Amendment*
 - **§ 2:** “No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which *results in* a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.”

State Law: RCW 29A.76.010(4)

- Each council district shall be as nearly equal in population as possible to each and every other such district comprising the municipal corporation
- Each district shall be as compact as possible.
- Each district shall consist of geographically contiguous area.
- Population data may not be used for purposes of favoring or disfavoring any racial group or political party.
- To the extent feasible and if not inconsistent with the basic enabling legislation for the municipal corporation, the district boundaries shall coincide with existing recognized natural boundaries and shall, to the extent possible, preserve existing communities of related and mutual interest.

Local Law: Seattle City Charter Article IV Sec. 2 Subdivision D(3)

- The population of the largest district shall exceed the population of the smallest by no more than one percent.
- Boundaries shall be drawn to produce compact and contiguous districts that are not gerrymandered.
- In drawing the plan, neither the Commission nor the districting master shall consider the residence of any person.
- To the extent practical, district boundaries shall follow existing District boundaries, recognized waterways and geographic boundaries, and Seattle communities and neighborhoods.